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COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Nineteenth session

SUMMARY RECORD OF THE 34th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 18 November 1998, at 3 p.m.

Chairperson: Mr. ALSTON

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The meeting was called to order at 3.10 p.m.

CONSIDERATION OF REPORTS:

(b) REPORTS SUBMITTED BY SPECIALIZED AGENCIES IN ACCORDANCE WITH ARTICLE 18 OF THE COVENANT (agenda item 6 (b))

1. Mrs. THOMAS (ILO) said that the ILO's Governing Body had not yet decided on a follow-up procedure for the ILO Declaration on Fundamental Principles and Rights at Work. She also mentioned a recent ILO publication, in English only, giving a comparative analysis of the Universal Declaration of Human Rights and ILO norms.

2. In a brief introduction to the Twenty-sixth Report of the ILO on progress in achieving observance of the provisions of the International Covenant on Economic, Social and Cultural Rights, she said with regard to Canada that the ILO's Committee of Experts had noted with satisfaction that a legislative amendment would be adopted shortly ensuring full implementation of the Forced Labour Convention (No. 29). With regard to the Equal Remuneration Convention (No. 100), the Committee of Experts had welcomed the repeal on 13 June 1996 of discriminatory distinctions between male and female workers with respect to employment retirement schemes and social benefits. The Committee on Freedom of Association had examined the complaints of several Canadian organizations concerning restrictions on collective bargaining and, in some cases, the right to strike.

3. With regard to Cyprus, the Committee of Experts had noted, with reference to the Abolition of Forced Labour Convention (No. 105), that some defence regulations were still a matter of concern, particularly insofar as they restricted the right to strike. The Government of Cyprus seemed nevertheless prepared to reconsider the matter. With reference to the Equal Remuneration Convention (No. 100), the Committee of Experts had noted that, following several missions, sex-based wage differentials were being eliminated in collective agreements.

4. With regard to Germany, the Committee of Experts reiterated the hope that the German authorities would review the wages of prisoners working in prisons and would fully observe the terms of the Forced Labour Convention (No. 29). With regard to implementation of the Discrimination (Employment and Occupation) Convention (No. 111), the Committee of Experts had requested the Government to ensure that in the public service legislative requirements of questioning as to faithfulness to the free and democratic order be applied restrictively having regard to the nature of the jobs involved. There appeared to have been some progress in that respect.

5. In Israel, conventions were applied only on Israeli territory and not in occupied Arab territories.

6. The CHAIRPERSON, noting that the Director-General did not appear to draw any real conclusion in his report on the situation of workers in the occupied Arab territories, asked how matters stood and whether any change of procedure could be expected.

7. Mrs. THOMAS (ILO) explained that the Director-General's latest report was limited in scope and contained little detail owing to the scarcity of information concerning the situation in the occupied Arab territories. No change of procedure had been officially announced. With regard to the situation in Switzerland, the Committee of Experts had noted with interest the coming into force on 1 January 1996 of the Federal Act on equality between men and women. Regarding the Freedom of Association and Protection of the Right to Organize Convention (No. 87), the Committee of Experts had requested the Swiss Government to amend its legislation with a view to allowing public servants the right to strike.

8. Mr. RIEDEL drew attention to the fact that the German Federal Constitutional Court had issued a ruling a week earlier which took account of ILO's observations concerning prisoners' wages.

CONSIDERATION OF REPORTS:

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (agenda item 6) (continued)

Third periodic report of Cyprus (E/1994/104/Add.12; E/C.12/Q/CYP/1; Written replies by the Government of Cyprus (document HR/CESCR/NONE/1998/2) and additional replies (no symbol), distributed at the meeting)

9. At the invitation of the Chairperson, Mr. Eftychiou, Mrs. Loizidou, Mrs. Theodorou, Mr. Pneumaticos and Mr. Kestoras took places at the Committee table.

10. Mr. EFTYCHIOU (Cyprus) said that since becoming independent in 1960 Cyprus had done its utmost to ensure the respect and protection of human rights. Cyprus had become a party to all human rights instruments for whose implementation monitoring bodies existed. International conventions took precedence over national legislation. In the first decade of the post-independence period, Cyprus had established solid human rights foundations and had made enviable economic progress. Its development had unfortunately been interrupted by the Turkish invasion of 1974. Since that time, 37 per cent of the territory of the Republic of Cyprus had come under Turkish military occupation and 70 per cent of the country's economic resources had become inaccessible to their rightful owners. Thousands of Greek Cypriots had been either forcibly evicted from their homes or killed, while 1,619 people were still reported missing. Even so, the Cypriot people had picked up the challenge and had embarked on rebuilding the country. If economic and social indicators were anything to go by, those efforts had met with success. The information contained in the third periodic report pertained only to the territory of the Republic under the effective control of the Government of Cyprus and therefore did not cover the 37 per cent of the territory under Turkish military occupation.

11. Mrs. LOIZIDOU (Cyprus) said that the report submitted to the Committee had been drafted by a committee of senior officials from a number of ministries and had been widely publicized among public institutions and non-governmental organizations. Since the report had been drawn up and the

written replies to the Committee's questions had been drafted, there had been several major new developments. By a decision dated 16 September 1998, the Council of Ministers had established a National Institution for Human Rights, as an independent body consisting of members appointed from the public as well as from the private sector. The Institution consisted of two committees. One was composed of government officials and its main task was to prepare the reports submitted under the various conventions and to recommend necessary amendments of national legislation. The other committee, which had its own chairman, was composed of members from the private sector and the House of Representatives. The main function of that second committee was to undertake studies, to put forward proposals and recommendations on human rights, to inform public opinion and to examine complaints for human rights violations. The Institution should become an additional guarantee for the protection and promotion of human rights in Cyprus.

12. A bill was currently under discussion for the protection of persons exposed to sexual and other exploitation. The bill introduced new offences into the penal system and increased the penalties for certain offences. Most of the offences under the Slavery Convention became punishable, and the draft law contained provisions prohibiting the sale of children, sexual exploitation of women and children, mutilation of women, use of children for pornography, the production, display, showing or transmission of pornographic productions and the exploitation of foreign cabaret artists. Offenders under the law would be extraditable and the proceeds of illegal activities would be confiscated.

13. Since the report had been drafted, the prison authorities had decided, for humanitarian reasons, to recommend to the President of the Republic and the Attorney-General suspending or commuting the sentences of most foreign prisoners with a view to their release, pursuant to article 53 (4) of the Constitution. Besides ratifying the European Convention on the Transfer of Convicted Persons, the Government of Cyprus had also negotiated a number of bilateral agreements with other countries, such as the Russian Federation, Egypt and Syria, providing for the transfer of convicted persons, subject to their consent, to the country of their nationality, in order to bring them closer to their families and facilitate their rehabilitation. With regard to foreign fugitives, Cypriot courts in extradition proceedings always granted legal aid to persons who did not have sufficient means to appoint a lawyer.

14. The Law on the prevention of violence within the family and the protections of victims of violence, which had been passed in June 1994, increased the penalties for all types of violence within the family. The Law penalized rape within marriage, while other provisions facilitated and speeded up proceedings in cases of violence against women and children. It provided for the appointment of family counsellors and set up an advisory committee to monitor and prevent violence in the family.

15. With regard to the operations of non-governmental organizations, it was worth noting that in Cyprus the International Association for the Protection of Human Rights, which had been set up in 1980, organized annual conferences on human rights in cooperation with the Directorate of Human Rights of the Council of Europe. The Committee for the Restoration of Human Rights Throughout Cyprus had recently issued a poster on the Universal Declaration of

Human Rights and had produced a document in 15,000 copies analysing the 30 articles of the Universal Declaration. The Pancyprian Committee for the Protection of Human Rights had also organized lectures and seminars on the subject of human rights.

16. The CHAIRPERSON invited members of the Committee to ask the delegation of Cyprus questions or to make comments on the "General Information" section of the list of issues to be taken up in connection with consideration of the third periodic report of Cyprus concerning rights covered by articles 1-15 of the International Covenant on Economic, Social and Cultural Rights.

17. Mr. RIEDEL was pleased to note that the Government of Cyprus wholeheartedly approved the preparation of an optional protocol to the Covenant and hoped that the delegation of Cyprus would put forward suggestions regarding ways of putting such a protocol into practice. He also welcomed the establishment of the National Human Rights Institution and wanted to know why non-governmental human rights organizations had not become part of the Institution.

18. Mr. SADI welcomed efforts to inform the public about human rights instruments, and especially the Covenant, implemented in Cyprus, but wanted to know whether the principles of the Covenant were effectively taken into account in the country's legislation and policies, especially its economic policy, and what the implications were in practice.

19. Mrs. JIMENEZ BUTRAGUEÑO asked for recent data on the over-65 age group.

20. Mr. MARCHAN ROMERO asked whether the Government of Cyprus had any effective control at all over the sector of Cypriot territory under Turkish occupation.

21. Mr. EFTYCHIOU (Cyprus) said he would like to begin by clarifying a few points of terminology. Since the end of hostilities in 1974, the island had been divided not by a frontier but by a ceasefire line. The population which had fled the area under foreign occupation had been seeking safety and had ended up living in tents. Several programmes had been introduced in 1974 to help the 20,000 or so displaced Greek Cypriots. The Government of Cyprus was still unable to exercise any authority over the area occupied and controlled by the Turkish army. It continued nevertheless, wherever possible, to fulfil its obligations to its citizens still in the occupied area, including the payment of pensions through the United Nations and the free supply of electricity and water.

22. Mrs. THEODOROU (Cyprus) said that 11 per cent of Cypriots were over 65. That age group had been deeply affected by the Turkish invasion owing to the fact that families had been separated. Several social measures had been introduced for elderly people who had previously been living in larger families (with the establishment of retirement homes and specialized institutions). Elderly persons who were not eligible for a social security pension received public assistance to cover their basic needs.

23. Mrs. LOIZIDOU (Cyprus) said that her Government intended to ratify the Optional Protocol to the Covenant, in the hope that there would be few reservations to the protocol so as not to restrict the scope of the Covenant.

24. The National Institution for Human Rights had held its first meeting on 11 November, attended by representatives of the Government, the private sector and NGOs. The Institution's operating procedures had not yet been decided. It had been suggested that Turkish representatives might be invited to attend. The Committee responsible for drafting the reports would have to have them approved by all the members of the Institution.

25. In reply to Mr. Sadi, she said that the Government of Cyprus had ratified all ILO Conventions relating to economic, social and cultural rights, as well as the human rights instruments of international organizations. All those instruments could be invoked before Cypriot courts.

26. The CHAIRPERSON asked for explanations regarding the legal status of the National Institution for Human Rights, especially where its degree of independence was concerned and its ability to make recommendations to the Government.

27. Mrs. LOIZIDOU (Cyprus) said that the Institution had been established by decision of the Council of Ministers, without the involvement of Parliament, in order to ensure that it became operational as soon as possible. The function of the Institution was to advise the Government on all human rights matters and to examine human rights complaints. It operated on a consultative basis. In addition, an independent mediator had been appointed five years earlier to consider individual complaints against the administrative authorities.

28. Mr. RIEDEL asked whether there was a possibility of a jurisdictional conflict in the event that opinions issued by the National Institution for Human Rights and those of the Ombudsman did not agree. How would the courts react in that case? He also wondered whether the Institution would be dealing with economic, social and cultural rights as well.

29. Mrs. LOIZIDOU (Cyprus) said that the Ombudsman would be dealing only with complaints against the administration, whereas the Institution would be authorized to examine all complaints, including complaints for violations of economic, social and cultural rights. In theory, therefore, there should be no conflict of jurisdiction between them. The fact that non-governmental organizations were represented in the Institution might add weight to the latter's views in relation to those of the Ombudsman.

30. The CHAIRPERSON invited members of the Committee to comment on questions 6 to 17 of the list of issues.

31. Mr. RIEDEL asked which provisions of the International Covenant on Economic, Social and Cultural Rights were invoked in practice before the courts.

32. Mrs. BONOAN-DANDAN inquired whether homosexuality constituted an offence in Cyprus and what practical measures the Government intended to take to

eliminate inequalities between men and women in the area of social security. She expressed surprise that only the children of male displaced persons were considered refugees.

33. Mr. THAPALIA wanted details of any discrimination affecting women in the private sector of the economy. More generally speaking, it would be interesting to have more details concerning the Government's measures to combat discriminatory practices against women.

34. Mr. GRISSA asked why the written replies referred to refugees and not to internally displaced persons. Those concerned were after all Cypriot nationals and not foreigners.

35. Mr. ADEKUOYE asked whether a person leaving the part of the island occupied by Turkey to go to a part controlled by the Government would be considered as an illegal immigrant.

36. Mr. SADI asked whether the Constitution had been amended with a view to making the Covenant more applicable.

37. Mr. EFTYCHIOU (Greece) said that according to article 182 of the Constitution of Cyprus, the Basic Articles listed in annex III to the Constitution were not open to amendment of any kind. The other articles could be amended, subject to the approval of at least two thirds of the representatives of the Greek community and at least two thirds of the representatives of the Turkish community, the consequence being that it was practically impossible to amend the Constitution. To understand the situation, it had to be recalled that the Republic of Cyprus had been established on 16 August 1960, with the entry into force of three important treaties and the Constitution, all of which had originated in the Zurich Agreement of 11 February 1959 between Greece and Turkey and the London Agreement of 19 February 1959 between Greece, Turkey and the United Kingdom. The Cypriots had not been consulted when the Constitution had been drafted and had not been able to express any view concerning the list of Basic Articles which were not open to amendment.

38. As far as the refugees were concerned, especially the 200,000 Greek Cypriots who had been expelled from the area occupied by the Turkish army, it was true that strictly speaking they should be referred to as "displaced persons", since they were in fact Cypriot citizens. All Cypriot citizens, whether they belonged to the Greek community or to the Turkish community, were equal before the law, so that any Turkish Cypriot citizen living in the occupied area could, if he so wished and if the occupying forces allowed it, cross over to the part of the island under the Government's control, where he would enjoy the same rights as other citizens. That situation obviously did not apply to the tens of thousands of Turkish settlers whom Turkey had brought over to the northern part of the island, which had been declared on many occasions by the Security Council as being an integral part of the Republic of Cyprus.

39. Mr. CEAUSU asked whether the Government had taken any steps to improve the situation of young women from Eastern Europe, who were brought to Cyprus

to work in certain establishments, such as nightclubs. Those women were said to be exploited and their passports confiscated for the duration of their contracts. If so, it would amount to a case of forced labour.

40. Mrs. BONOAN-DANDAN asked for information concerning domestic workers, many of whom came from Eastern and Southern Asia. They were said to be frequently exposed to ill-treatment and to be forced to work in inhuman conditions.

41. Mr. SADI expressed surprise at the fact that only 10 complaints for ill-treatment to domestic workers had been brought before the courts. He wanted to know whether that very low figure was due to the fear of reprisals and how those 10 or so complaints had been dealt with.

42. Mrs. JIMENEZ BUTRAGUEÑO inquired whether the Government of Cyprus was considering changing its legislation to put an end to discrimination between men and women and to discrimination between married women and single women. For instance, it was said in paragraph 215 of the report that unmarried women aged under 35 employed in agriculture were not covered by social security.

43. Mr. MARCHAN ROMERO wanted to know whether it was true that a Cypriot woman married to a foreigner could not pass on Cypriot nationality to her children, although a Cypriot man married to a foreign woman could.

44. Mrs. BONOAN-DANDAN asked the Cypriot delegation to explain how the rights of foreigners or non-nationals could conflict with the sovereign rights of the State regarding aliens (para. 16 of the report) and why only the children of male displaced persons were themselves considered as refugees.

45. Mr. ADEKUOYE asked in what specific areas economic, social and cultural rights had already been invoked before the courts or other judicial bodies or administrative authorities.

46. Mr. CEVILLE wanted to know firstly when the bill amending certain provisions giving the Council of Ministers the discretionary power to forbid strikes in some "essential services" would be passed, and secondly whether the bill complied with international instruments on the subject.

47. Mr. KOUZNETSOV asked when the new regulations concerning the employment of pregnant women at night (para. 32 of the report) would come into effect, considering that it should be forbidden for pregnant women to work at night, according to the relevant ILO conventions and recommendations.

48. Mrs. LOIZIDOU (Cyprus) said that homosexual relations between consenting adults were no longer considered an offence, so long as they did not harm public morality. With regard to the children of Cypriot mothers and foreign fathers, legislation was being drafted to enable such children to acquire their mother's nationality. The delegation of Cyprus would provide replies in due course concerning the exploitation of some foreign workers, especially women, the exclusion of certain foreigners from entry into Cyprus and the status of refugee children.

49. The complaints of foreign workers on grounds of sexual exploitation or criminal acts were dealt with either by the police or by the Office of the Attorney-General of the Republic. When a complaint of that kind was lodged, an investigation was begun and the person responsible was duly prosecuted. The relevant statistics would be supplied.

50. The complaints of domestic workers concerning their conditions of employment or the observance of contract terms had to be lodged initially with the immigration authorities, since it was the immigration department that issued the necessary work permits in the first place. As the Ombudsman had expressed the view that such a procedure gave rise to discrimination, the complaints of foreign domestic workers, like those of other categories of foreign workers, would henceforth be submitted to the Labour Ministry. The Ombudsman had drafted a report concerning such complaints and its findings would be explained in detail on a later occasion.

51. Mrs. THEODOROU (Cyprus), referring to the new law governing the right to strike, confirmed that the Government's purpose was to ensure that the law was fully compatible with its international obligations. Following a proposal by the trades unions, the Government had requested ILO to send an expert to Cyprus to check whether the draft law in question complied with the provisions of the relevant ILO Conventions. The expert had come on a mission to Cyprus in 1995 and had submitted a report to an inter-ministerial committee, which had already met several times. The end results would be reported in Cyprus's next periodic report.

52. Mr. ADEKUOYE enquired about the causes of the delay in applying the 1989 law on equal pay for men and women, despite the constant efforts of the Government supported by ILO and UNDP. A tripartite technical committee had been set up, but had apparently not yet expressed an opinion on the recommendation submitted by the ILO experts proposing new measures to make the law more effective in practice. He noted that a table given at the end of the reply to question 22 showed that in 1995 the mean differential between men's and women's pay had been 46.4 per cent, compared with 67 per cent in 1994, and wondered whether that was an indication of noteworthy progress, as the Government of Cyprus appeared to believe.

53. In its reply to question 25, the Government of Cyprus had stated that the average per capita income had been around US$ 11,500 in 1994. It would be interesting to know, however, what percentage of the population was below that level and what percentage was above, and to know how the minimum wage related to that average per capita income.

54. Mr. CEAUSU said he wondered whether the clause in the bill to protect persons exposed to sexual exploitation, whereby the gains from such illegal activities were confiscated, might not discourage the victims of that form of exploitation from reporting the facts out of fear that what they had earned during their stay in Cyprus might be confiscated.

55. Mr. EFTYCHIOU (Cyprus) said that the new law was aimed at those who exploited, not at the victims. It was exploitation that was punishable. While the law on equal pay for men and women had been in force since 1989, the authorities were still looking for practical ways of ensuring that it was

properly applied in the private sector, as it was already in the public sector. It was for that reason that the Government had requested the advice of ILO and other competent organizations.

56. The CHAIRPERSON invited members of the Committee to ask questions on articles 9 and 10.

57. Mrs. JIMENEZ BUTRAGUEÑO wanted to know whether the legal retirement age in Cyprus was the same for women as for men and whether private sector employees were forced to take retirement when they reached the legal age or whether they could continue working beyond the legal age and, if so, under what conditions.

58. Mrs. BONOAN-DANDAN, referring to the Government's written reply to question 37 of the list, said that, despite the very categorical nature of the reply, according to certain sources and in particular according to the official observations of the Committee on the Rights of the Child, Cyprus did have a problem of child prostitution, especially among foreign children, and he would like some clarification in that respect. Another point was that there seemed to be a discrepancy between an observation made by the Human Rights Committee, whereby the marriageable age in Cyprus corresponded to the onset of puberty, and the information given in the periodic report, according to which the age required for marriage was 18 without parental consent and 16 with such consent. It would be interesting to have further details in that respect.

59. Mr. RIEDEL, referring to the written reply to question 46 of the list, concerning facilities for children who had been the victims of sexual abuse or exploitation, wondered what part the parents played in the decision to place children temporarily in a children's home, and more particularly, what happened if the parents disagreed. He also wanted to know how many institutions of that kind there were in Cyprus, and what sort of methods in general were applied to deal with children who were admitted to the homes.

60. Mr. GRISSA asked how foreign domestic workers were treated in Cyprus and how their rights were protected. He wished to know in particular whether they were entitled to social security benefits, whether they could send their earnings back to their country, and what was done to protect them against sexual exploitation. In general, he would like to know how migrant workers were treated in Cyprus.

61. Mr. ADEKUOYE, referring to the written reply to question 38 on the list concerning the prevention of violence in the family, wished to know whether, considering that family counsellors had already been appointed under the Violence in the Family Law, why there were delays in implementing the other provisions of the law, especially since the problem of violence in the family appeared to be very widespread in Cyprus.

The meeting rose at 6.00 p.m.